

AARON R. GRUBER (CABN 209509)
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DYLAN J. CROSBY (CABN 299536)
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Attorneys for Counter-Defendant
PACIFIC GAS & ELECTRIC COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In Re
PG&E CORPORATION
v.
AECOM TECHNICAL SERVICES, INC.

Case No. 4:20-cv-05381-HSG (Lead Case)

(Reference withdrawn from Bankruptcy Case
No. 19-30088, Adv. Proc. No. 20-03019 and
Adv. Proc. No. 19-03008)

(Consolidated with Case No. 3:20-cv-08463-
EMC)

**DECLARATION OF DYLAN J. CROSBY
IN SUPPORT OF PG&E'S MOTION FOR
RULE 54(b) JUDGMENT AS TO AECOM
AND JH KELLY'S MECHANIC'S LIEN
CLAIMS**

[Fed. R. Civ. P. 54(b)]

Date: December 2, 2021
Time: 2:00 p.m.
Courtroom: 2, 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.

Complaint Filed: January 25, 2019
Trial Date: February 14, 2022

1 I, Dylan J. Crosby, declare:

2 1. I am an attorney at Ralls Gruber & Niece LLP and counsel of record for Pacific Gas
3 & Electric Company (PG&E) in this action. I make this declaration in support of PG&E's Rule
4 54(b) Motion for Judgment as to AECOM Technical Services, Inc. (AECOM) and JH Kelly, LLC's
5 (JH Kelly) Mechanic's Lien Claims. Unless indicated otherwise, I have personal knowledge of the
6 matters set forth below and if called as a witness, I could and would testify competently thereto.

7 2. Attached as **Exhibit A** is a true copy of my offices April 30, 2021, letter to
8 AECOM's counsel.

9 3. Attached as **Exhibit B** is a true copy of my offices April 30 letter to JH Kelly's
10 counsel.

11 4. Attached as **Exhibit C** is a true copy of the May 5 letter sent by AECOM's counsel
12 to my offices.

13 5. Attached as **Exhibit D** is a true copy of my offices June 15 letter to JH Kelly's
14 counsel.

15 6. Attached as **Exhibit E** is a true copy of the June 25 letter sent by JH Kelly's counsel
16 to my offices.

17 7. Attached as **Exhibit F** is a true copy of the June 28-July 9 e-mail correspondence
18 between my offices and AECOM's counsel.

19 8. Attached as **Exhibit G** is a true copy of my July 7 e-mail correspondence to JH
20 Kelly's counsel. Following my July 7 e-mail, counsel for JH Kelly and PG&E discussed a
21 resolution concerning PG&E's request for judgment as to JH Kelly's mechanic's lien claim. The
22 parties ultimately did not reach a resolution.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct.

25 Executed August 16, 2021, Oakland, California.

26 

27 _____
28 DYLAN J. CROSBY

EXHIBIT A



1700 S. El Camino Real, Suite 150
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Phone (650) 458-4040
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April 30, 2021

Aaron R. Gruber
direct (650) 445-0543
agruber@rallsgruber.com

Via Email

William M. Taylor
Troutman Pepper Hamilton Sanders LLP
High Street Tower, 125 High Street, 19th Floor
Boston, MA 02110
taylorw@troutman.com

**Re: In Re PG&E v. AECOM
Order Granting Motion to Dismiss Claim for Foreclosure of
Mechanics Lien**

Dear Will:

As you may be aware, the Court issued its "Order Granting Motion to Dismiss Claim for Foreclosure of Mechanics Lien" (Order) today. ECF No. 56. The Court's Order granted PG&E's motion to dismiss as to JH Kelly's First Claim for Foreclosure of Mechanic's Lien *without leave to amend*. The Court also found that JH Kelly's mechanic's lien is void. Order at p. 7, fn. 3.

Given the Court's Order and the parties' agreement concerning AECOM's claim for "Determination of Priority and Extent of AECOM's Valid Mechanic's Lien," PG&E has asked that we confirm that AECOM is going to promptly (i) release/discharge its mechanic's lien recorded against PG&E's property (Shasta County Document No. 2019-002196) and (ii) dismiss its lien claim. Please let us know by Wednesday (5/5) whether AECOM is going to take these actions, and a timeline for doing so.

Please also let me know if you have any questions or would like to discuss this matter in more detail.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Gruber".

Aaron R. Gruber

cc: Luke Eaton (Luke.Eaton@troutman.com)

EXHIBIT B



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San Mateo, CA 94402
Phone (650) 458-4040
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April 30, 2021

Aaron R. Gruber
direct (650) 445-0543
agruber@rallsgruber.com

Via Email

Eric Grasberger
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
eric.grasberger@stoel.com

**Re: In Re PG&E v. AECOM
Order Granting Motion to Dismiss Claim for Foreclosure of
Mechanics Lien**

Dear Eric:

Following the Court's order, PG&E has asked us to request that JH Kelly release/discharge its mechanic's lien recorded against PG&E's property (Shasta County Document No. 2018-0030534) at its earliest convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. R. Gruber".

Aaron R. Gruber

cc: Mario Nicholas (mario.nicholas@stoel.com)

EXHIBIT C

Troutman Pepper Hamilton Sanders LLP
Two California Plaza, 350 South Grand Avenue, Suite 3400
Los Angeles, CA 90071-3427



troutman.com

Luke N. Eaton
D 213.928.9838
F 866.804.8869
luke.eaton@troutman.com

May 5, 2021

VIA EMAIL

Aaron Gruber
Ralls Gruber & Niece
1700 S. El Camino Real, Suite 150
San Mateo, CA 94402
agruber@rallsgruber.com

Re: PG&E Corporation et al v. AECOM Technical Services, Inc, et al.
Case No. 4:20-cv-05381-HSG
JH Kelly's Mechanics Lien Claim

Dear Aaron:

I am responding to your April 30, 2021 letter to Will Taylor regarding the Court's April 30 Order Granting Motion to Dismiss Claim for Foreclosure of Mechanics Lien [Dkt. No. 56]. We are in receipt of the Court's Order.

We would prefer to focus our time and efforts on the upcoming May 11 mediation, and therefore we suggest that we table these discussions until May 11 or afterwards. However, for efficiency purposes, we propose to release the mechanics lien and dismiss the mechanics lien cause of action after the July 1, 2021 hearing on PG&E's Motion to Dismiss. Under this proposed timeline, the Court can dismiss the lien claim at the hearing and/or if leave to amend is given, we can address the dismissal of the lien claim in a further amended pleading. Please let us know if PG&E is agreeable with this proposal.

More importantly, as reflected in correspondence produced by PG&E in this action, we understand that PG&E was withholding payment from AECOM based on JH Kelly's \$15.9 million lien claim. If JH Kelly's lien is void, so is (and was) PG&E's withholding. Therefore, we request that PG&E remit payment to AECOM at its earliest convenience.

Likewise, this ruling confirms that PG&E had no good faith basis to withhold these monies from AECOM for the last two-plus years, but at a minimum, there is no basis for any further withholding.

Aaron Gruber
May 5, 2021
Page 2



AECOM is tracking the prompt payment penalties owed from PG&E, including interest at two percent per month and prevailing party attorneys' fees, which continue to accrue.

I am available by telephone to discuss these matters further.

Sincerely yours,

A handwritten signature in blue ink that reads "LEaton".

Luke N. Eaton

EXHIBIT D



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San Mateo, CA 94402
Phone (650) 458-4040
www.rallsgruber.com

June 15, 2021

Aaron R. Gruber
direct (650) 445-0543
agruber@rallsgruber.com

Via Email

Eric Grasberger
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
eric.grasberger@stoel.com

**Re: In Re PG&E v. AECOM
Order Granting Motion to Dismiss Claim for Foreclosure of
Mechanics Lien**

Dear Eric:

The deadline to appeal the Court's order dismissing JH Kelly's mechanic's lien has now passed. As such, we are renewing our request that JH Kelly release/discharge its mechanic's lien recorded against PG&E's property (Shasta County Document No. 2018-0030534), by no later than June 22, 2021. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Gruber".

Aaron R. Gruber

cc: Mario Nicholas (mario.nicholas@stoel.com)

EXHIBIT E



June 25, 2021

Mario R. Nicholas
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
D. 503.294.9510
mario.nicholas@stoel.com

SENT BY EMAIL (agruber@rallsgruber.com)

Aaron R. Gruber
1700 S. El Camino Real, Suite 150
San Mateo, CA 94402

Re: *In Re PG&E Corporation v. AECOM Technical Services, et al.*, Case No. 20-cv-05381 (N.D. Cal.)

Dear Aaron:

I write in response to your letter dated June 15, 2021 regarding the Court's Order granting PG&E's motion to dismiss JH Kelly's claim for foreclosure of mechanic's lien (Dkt. No. 56) (the "Order"). Your letter states that the deadline to appeal the Order has now passed, and requests that JH Kelly release/discharge its mechanic's lien.

We disagree that the deadline to appeal the Order has passed. The Order is not a "final decision" under 28 U.S.C. § 1291, nor is it subject to interlocutory appeal under 28 U.S.C. § 1292. The Order also adjudicates "fewer than all the claims or the rights and liabilities of fewer than all the parties" under Fed. R. Civ. P. 54(b). *See, e.g., Hyan v. Hummer*, 825 F.3d 1043 (9th Cir. 2016) (dismissing premature appeal for lack of appellate jurisdiction).

JH Kelly intends to appeal the Order when the Court's ruling on JH Kelly's mechanic's lien is ripe for appeal. JH Kelly does not intend to release its mechanic's lien in the interim as releasing its mechanic's lien could prejudice JH Kelly's rights on appeal. We are also not aware of any authority that requires JH Kelly to release its mechanic's lien at this time.

Please contact me with any questions.

Sincerely,

/s/ Mario R. Nicholas

Mario R. Nicholas

cc: Eric A. Grasberger
Dylan J. Crosby

EXHIBIT F

From: [Eaton, Luke Nicholas](#)
To: [Dylan J. Crosby](#); [Hack, Marion T.](#)
Cc: [Aaron Gruber](#)
Subject: RE: Burney - PG&E Motion to Dismiss
Date: Thursday, July 8, 2021 5:31:06 PM

Dylan –

AECOM is not agreeable to your proposal.

Thank you,

Luke N. Eaton

Partner

troutman pepper

Direct: 213.928.9838 | Internal: 816-9838

luke.eaton@troutman.com

From: Dylan J. Crosby <dcrosby@rallsgruber.com>
Sent: Tuesday, July 6, 2021 1:44 PM
To: Eaton, Luke Nicholas <Luke.Eaton@troutman.com>; Hack, Marion T. <Marion.Hack@Troutman.com>
Cc: Aaron Gruber <agruber@rallsgruber.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>
Subject: RE: Burney - PG&E Motion to Dismiss

EXTERNAL SENDER

Hi Luke - I hope you had an enjoyable Fourth of July weekend. Is AECOM agreeable to our proposal concerning judgement as to its lien claim, as described below?

Dylan J. Crosby

Ralls Gruber & Niece LLP

1700 S. El Camino Real, Suite 150

San Mateo, CA 94402

Direct: 707.315.4248

Email: dcrosby@rallsgruber.com

From: Dylan J. Crosby
Sent: Monday, June 28, 2021 1:18 PM
To: Eaton, Luke Nicholas <Luke.Eaton@troutman.com>; Hack, Marion T. <Marion.Hack@Troutman.com>
Cc: Dylan J. Crosby <dcrosby@rallsgruber.com>; Aaron Gruber <agruber@rallsgruber.com>
Subject: RE: Burney - PG&E Motion to Dismiss

Luke,

Sorry for the delay. We believe that footnote one (1) of the Order resolves the need for a stipulation

concerning dismissal of AECOM's mechanic's lien claim.

Additionally, we propose the parties stipulate that judgment be entered as to AECOM's mechanic's lien claim pursuant to Rule 54(b) because "there is no just reason for delay." The Court ruled that the mechanic's liens recorded against PG&E's property are void *ab initio* and the Court's ruling as to AECOM's mechanic's lien claim has no bearing on AECOM's remaining claims. If AECOM wants to appeal the Court's ruling as to the lien issue, it should do so now – not at the end of the case.

If AECOM agreeable to this proposal, we will draft a stipulated judgment for your review. If not, we will make a formal request to the Court that judgment be entered. Please let us know. We are also going to make the same request as to JH Kelly's lien claim.

Regards,
Dylan

Dylan J. Crosby
Ralls Gruber & Niece LLP
1700 S. El Camino Real, Suite 150
San Mateo, CA 94402
Direct: 707.315.4248
Email: dcrosby@rallsgruber.com

From: Eaton, Luke Nicholas <Luke.Eaton@troutman.com>
Sent: Monday, June 28, 2021 11:39 AM
To: Dylan J. Crosby <dcrosby@rallsgruber.com>; Aaron Gruber <agruber@rallsgruber.com>
Cc: Hack, Marion T. <Marion.Hack@Troutman.com>
Subject: FW: Burney - PG&E Motion to Dismiss
Importance: High

Aaron/Dylan –

We were hoping to file this before the July 1 hearing, but the court just issued its ruling without oral argument. To make sure there is no confusion, we would like to file this as soon as possible.

Thank you,

Luke N. Eaton
Partner
troutman pepper
Direct: 213.928.9838 | Internal: 816-9838
luke.eaton@troutman.com

From: Eaton, Luke Nicholas
Sent: Thursday, June 24, 2021 1:00 PM
To: Aaron Gruber <agruber@rallsgruber.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>

Cc: Hack, Marion T. <Marion.Hack@Troutman.com>

Subject: RE: Burney - PG&E Motion to Dismiss

Aaron/Dylan –

Do you have any further changes to the stipulation? We would like to get this filed before the July 1 hearing.

Luke N. Eaton

Partner

troutman pepper

Direct: 213.928.9838 | Internal: 816-9838

luke.eaton@troutman.com

From: Eaton, Luke Nicholas

Sent: Wednesday, June 9, 2021 8:15 AM

To: Aaron Gruber <agruber@rallsgruber.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>

Cc: Hack, Marion T. <Marion.Hack@Troutman.com>

Subject: RE: Burney - PG&E Motion to Dismiss

Aaron –

Thank you.

1. I will make that change.
2. The right to appeal would be governed by code. Depending on how the court rules, the time to appeal would not expire until the case is over.

Thank you,

Luke N. Eaton

Partner

troutman pepper

Direct: 213.928.9838 | Internal: 816-9838

luke.eaton@troutman.com

From: Aaron Gruber <agruber@rallsgruber.com>

Sent: Tuesday, June 8, 2021 10:11 PM

To: Eaton, Luke Nicholas <Luke.Eaton@troutman.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>

Cc: Hack, Marion T. <Marion.Hack@Troutman.com>

Subject: RE: Burney - PG&E Motion to Dismiss

EXTERNAL SENDER

Luke

I am fine with the stipulation in principle. A few edits/comments:

1. Para 1: Remove comma after "Lien"
2. If you preserve the right of appeal, we should set a date for the clock to run on that preservation. The date of the entry of the order on the Motion to Dismiss?? The date of the stipulation??

Aaron

From: Eaton, Luke Nicholas <Luke.Eaton@troutman.com>

Sent: Tuesday, June 8, 2021 6:13 PM

To: Aaron Gruber <agruber@rallsgruber.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>

Cc: Hack, Marion T. <Marion.Hack@Troutman.com>

Subject: FW: Burney - PG&E Motion to Dismiss

Aaron/Dylan –

I do not believe that I received a response to my June 4 email below.

Can you please let me know PG&E's position?

Thank you,

Luke N. Eaton

Partner

troutman pepper

Direct: 213.928.9838 | Internal: 816-9838

luke.eaton@troutman.com

From: Eaton, Luke Nicholas

Sent: Friday, June 4, 2021 3:24 PM

To: Aaron Gruber <agruber@rallsgruber.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>

Cc: Hack, Marion T. <Marion.Hack@Troutman.com>

Subject: Burney - PG&E Motion to Dismiss

Aaron/Dylan –

In connection with PG&E's Reply and, in advance of the hearing, we thought it would be worthwhile to memorialize our agreement regarding the treatment of AECOM's mechanics lien cause of action. Out of an abundance of caution, we want to make clear in the record that AECOM is not waiving any right to appeal the dismissal of the mechanics lien cause of action but instead, given the overlap of the issues, we agree not to re-brief the same issue that was decided in connection with PG&E's motion to dismiss JHK's liens.

To that end, we have drafted the attached.

Please let me know if you are onboard with the proposed approach.

Thank you,

Luke N. Eaton

Partner

Direct: 213.928.9838 | Internal: 816-9838

luke.eaton@troutman.com

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A HIGHER COMMITMENT TO CLIENT CARE

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EXHIBIT G

From: [Dylan J. Crosby](#)
To: [Grasberger, Eric](#); [Nicholas, Mario R.](#)
Cc: [Aaron Gruber](#); [Dylan J. Crosby](#)
Subject: RE: In Re PG&E Corporation v. AECOM Technical Services, et al., Case No. 20-cv-05381 (N.D. Cal.) [SR-ACTIVE.FID4341114]
Date: Wednesday, July 7, 2021 2:46:34 PM
Attachments: [2021.06.25 LT A. Gruber.pdf](#)
[image001.png](#)

Hi Mario,

Thank you for your letter. We disagree with JH Kelly's position that it does not have an obligation to release/discharge its mechanic's lien following the Court's Order dismissing its lien claim with prejudice.

Regardless, if that is JH Kelly's position, we propose the parties stipulate that judgment be entered as to JH Kelly's mechanic's lien claim pursuant to Rule 54(b) because "there is no just reason for delay." The Court ruled that the mechanic's liens recorded against PG&E's property are void *ab initio* and JH Kelly has no other claims against PG&E that could be impacted by the Court's ruling. If JH Kelly wants to appeal the Court's ruling as to the lien issue, it should do so now – not at the end of the case – as PG&E's property continues to be adversely affected by JH Kelly's lien.

If JH Kelly agreeable to this proposal, we will draft a stipulated judgment for your review. If not, we will make a formal request to the Court that judgment be entered. Please let us know by close of business **Monday, July 12**. We have made the same request as to AECOM's lien claim.

Regards,
Dylan

Dylan J. Crosby
Ralls Gruber & Niece LLP
1700 S. El Camino Real, Suite 150
San Mateo, CA 94402
Direct: 707.315.4248
Email: dcrosby@rallsgruber.com

From: Trask, Ana <ana.trask@stoel.com>
Sent: Friday, June 25, 2021 11:50 AM
To: Aaron Gruber <agruber@rallsgruber.com>
Cc: Nicholas, Mario R. <mario.nicholas@stoel.com>; Grasberger, Eric <eric.grasberger@stoel.com>; Dylan J. Crosby <dcrosby@rallsgruber.com>
Subject: In Re PG&E Corporation v. AECOM Technical Services, et al., Case No. 20-cv-05381 (N.D. Cal.) [SR-ACTIVE.FID4341114]

Mr. Gruber,

Please see the attached from Mario Nicholas.

Thank you,

Ana Trask | Practice Assistant to Eric A. Grasberger, Mario R. Nicholas, Laura Kerr & Scott E. Rosenthal
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Direct: (503) 294-9168 | Fax: (503) 220-2480
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